



Montana Legislative History

Chapter: 348 Session L: 2007

Bill Number: Senate Bill 296

Checklist of Bill History

History and Final Status Sheet	x
Introduced Bill	X
Fiscal Note	X
Third Reading Bill	X
Final Version of Bill	X

House

Committee:
Business and
Labor

Hearing Date(s):
[April 2, 2007](#)

Conference Committee

Hearing Date(s): n/a

Conference Committee Report:

Senate

Committee: Business, Labor and Economic
Affairs

Hearing Date(s):
[January 30, 2007](#)

Compiler Notes

Compiled by: sg

Date: 6/25/2024

Notes: Executive Action same day as committee hearing.

Bill Draft Number: LC0067

Bill Type - Number: SB 296

Short Title: Revise beer and wine licensing laws

Primary Sponsor: Dan Weinberg (D) SD 2

Chapter Number: 348

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 47

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/30/2007			
(S) Signed by Governor	04/28/2007			
(S) Transmitted to Governor	04/18/2007			
(H) Signed by Speaker	04/18/2007			
(S) Signed by President	04/17/2007			
(C) Printed - New Version Available	04/16/2007			
(S) Returned from Enrolling	04/16/2007			
(S) Sent to Enrolling	04/13/2007			
(H) Returned to Senate	04/13/2007			
(H) 3rd Reading Concurred	04/13/2007	77	22	
(H) Scheduled for 3rd Reading	04/13/2007			
(H) 2nd Reading Concurred	04/12/2007	83	16	
(H) Scheduled for 2nd Reading	04/12/2007			
(H) Committee Report--Bill Concurred	04/02/2007			(H) Business and Labor
(H) Committee Executive Action--Bill Concurred	04/02/2007	15	1	(H) Business and Labor
(H) Hearing	04/02/2007			(H) Business and Labor
(H) First Reading	03/13/2007			
(H) Referred to Committee	03/12/2007			(H) Business and Labor
(S) Transmitted to House	02/06/2007			
(S) 3rd Reading Passed	02/06/2007	45	5	
(S) Scheduled for 3rd Reading	02/06/2007			
(S) 2nd Reading Passed on Voice Vote	02/05/2007	43	3	
(S) Scheduled for 2nd Reading	02/05/2007			
(S) Fiscal Note Printed	02/02/2007			
(C) Printed - New Version Available	01/30/2007			
(S) Committee Report--Bill Passed as Amended	01/30/2007			(S) Business, Labor, and Economic Affairs
(S) Committee Executive Action--Bill Passed as Amended	01/30/2007	11	0	(S) Business, Labor, and Economic Affairs
(S) Fiscal Note Received	01/30/2007			

(S) Hearing	01/30/2007	(S) Business, Labor, and Economic Affairs
(C) Introduced Bill Text Available Electronically	01/18/2007	
(S) Referred to Committee	01/18/2007	(S) Business, Labor, and Economic Affairs
(S) First Reading	01/18/2007	
(S) Introduced	01/18/2007	
(S) Fiscal Note Requested	01/18/2007	
(C) Draft Delivered to Requester	01/17/2007	
(C) Draft Ready for Delivery	01/16/2007	
(C) Draft in Assembly/Executive Director Review	01/15/2007	
(C) Draft in Final Drafter Review	01/15/2007	
(C) Bill Draft Text Available Electronically	01/15/2007	
(C) Draft in Input/Proofing	01/15/2007	
(C) Draft to Drafter - Edit Review [JLN]	01/15/2007	
(C) Draft in Edit	01/15/2007	
(C) Draft in Legal Review	01/12/2007	
(C) Draft to Requester for Review	12/27/2006	
(C) Draft On Hold	11/13/2006	
(C) Draft to Requester for Review	10/27/2006	
(C) Draft Request Received	03/20/2006	

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Weinberg	Dan
Drafter	Martin	Jeff
Primary Sponsor	Weinberg	Dan

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Alcohol and Drugs		Simple	ALC
Revenue, State	Revenue	Simple	REVS

Additional Bill Information

Fiscal Note Probable: Yes
Preintroduction Required: N
Session Law Ch. Number: 348

DEADLINE

Category: Revenue Bills

Transmittal Date: 04/03/2007

Return (with 2nd house amendments) Date: 04/18/2007

Section Effective Dates

Section(s) Effective Date Date Qualified

All Sections 01-JUL-07

(3) "National guard" means the army national guard and the air national guard.

(4) "Officer" means a commissioned or warrant officer.

(5) "*Youth challenge program*" means the Montana national guard youth challenge program established pursuant to [section 2]."

Section 2. Montana national guard youth challenge program authorized. A youth challenge program provided for pursuant to 32 U.S.C. 509 may be established in the department.

Section 3. Legislative intent. It is the intent of the legislature that:

(1) the youth challenge program assist youth between 16 and 18 years of age to achieve a quality education and develop the skills and abilities necessary to become productive citizens;

(2) the youth challenge program focus on the physical, emotional, and educational needs of youth within a voluntary, highly structured environment;

(3) eligible participants be drug-free, not be on parole or probation for other than juvenile-status offenses, not have been indicted for or charged with an offense other than a juvenile-status offense, and not have been convicted of a felony or capital offense;

(4) recruiting for the youth challenge program treat all eligible youth equitably and seek representation from different genders, ethnic groups, and geographic locations;

(5) the youth challenge program conduct structured training consisting of a residential phase and a postresidential phase with curriculum that focuses on academic excellence, including the successful completion of the tests for general educational development, and on physical fitness, job skills, service to the community, health and hygiene, responsible citizenship, leadership, how to follow directions, and life-coping skills; and

(6) the youth challenge program be conducted in cooperation with other community programs for at-risk youth.

Section 4. Administration and staff. Subject to 32 U.S.C. 509 and its implementing regulations and applicable agreements, the youth challenge program may be staffed by an administrator and the professional, technical, secretarial, and clerical employees necessary for the performance of the youth challenge program's functions.

Section 5. Codification instruction. [Sections 2 through 4] are intended to be codified as an integral part of Title 10, chapter 1, and the provisions of Title 10, chapter 1, apply to [sections 2 through 4].

Section 6. Effective date. [This act] is effective on passage and approval.

Approved April 27, 2007

CHAPTER NO. 348

[SB 296]

AN ACT REVISING THE QUOTA SYSTEM FOR ISSUING RESTAURANT BEER AND WINE LICENSES; REVISING THE NUMBER OF QUOTA AREAS; INCREASING THE NUMBER OF RESTAURANT BEER AND WINE

LICENSES THAT MAY BE ISSUED IN A QUOTA AREA; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) in the case of an individual applicant:

(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(ii) the applicant is not under 19 years of age;

(b) in the case of a corporate applicant:

(i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board of directors must meet the requirements of subsection (1)(a);

(ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and

(iii) the corporation is authorized to do business in Montana;

(c) in the case of any other business entity, including but not limited to partnerships, including limited liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:

(i) if the applicant consists of more than one individual, all individuals must meet the requirements of subsection (1)(a); and

(ii) if the applicant consists of more than one corporation, all corporations listed on a national stock exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock exchange must meet the requirements of subsection (1)(b)(ii);

(d) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(e) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be

discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(f) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) ~~A restaurant~~ *An on-premises retail licensee that who sells its the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.*

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

- (a) the applicant is qualified to receive a license;
- (b) the applicant's premises are suitable for the carrying on of the business;
- (c) the requirements of this code and the rules promulgated by the department are complied with; and
- (d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) For purposes of this section, "restaurant" means a public eating place where individually priced meals are prepared and served for on-premises consumption. At least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food. The restaurant must have a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant. A full-service restaurant is a restaurant that provides an evening dinner meal.

(7) (a) (i) Subject to the conditions of subsection (7)(a)(ii), a restaurant beer and wine license may be transferred, upon approval by the department, from the original applicant to a new owner of the restaurant if there is no change of location, and the original owner may transfer location after the license is issued by the department to a new location, upon approval by the department.

(ii) A new owner may not transfer the license to a new location for a period of 1 year following the transfer of the license to the new owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) *except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;*

~~(i)(ii)~~ (ii) for a restaurant located in a quota area with a population of ~~20,000~~ 5,001 to 20,000 persons ~~or fewer~~, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~80%~~ 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

~~(ii)(iii)~~ (iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~50%~~ 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

~~(iii)(iv)~~ (iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~40%~~ 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

~~(iv)(v)~~ (v) for a restaurant located in a quota area that is also a resort community, as the resort community is designated by the department of commerce under 7-6-1501(5), if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than ~~100%~~ 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through ~~(8)(a)(iii)~~ (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under ~~subsections~~ subsection (8)(a)(i)

through ~~(8)(a)(iii)~~, there must be a one-time adjustment of ~~one~~ *four* additional license licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (9).

(9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in the quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) Any applicant who operates a restaurant that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application must be given a preference, and any unsuccessful lottery applicants from previous selections must also be given a preference. An applicant with both preferences must be awarded a license before any applicant with only one preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

(a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;

(b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is \$400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant,

then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license."

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 3. Effective date. [This act] is effective July 1, 2007.

Approved April 28, 2007

CHAPTER NO. 349

[SB 302]

AN ACT REMOVING SPECIAL SPEED RESTRICTIONS FOR CERTAIN PORTIONS OF U.S. HIGHWAY 93; AND AMENDING SECTION 61-8-303, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-303, MCA, is amended to read:

"61-8-303. Speed restrictions. (1) Except as provided in 61-8-309, 61-8-310, and 61-8-312, ~~and subsection (2) of this section,~~ the speed limit for vehicles traveling:

(a) on a federal-aid interstate highway outside an urbanized area of 50,000 population or more is 75 miles an hour at all times and the speed limit for vehicles traveling on federal-aid interstate highways within an urbanized area of 50,000 population or more is 65 miles an hour at all times;

(b) on any other public highway of this state is 70 miles an hour during the daytime and 65 miles an hour during the nighttime;

(c) in an urban district is 25 miles an hour.

(2) ~~The speed limit for vehicles traveling on U.S. highway 93 between reference marker 133 northwest of Whitefish and the Idaho border is 65 miles an hour at all times. The speed limit imposed by this subsection ceases to be effective if U.S. highway 93 is upgraded to a continuous four-lane highway.~~

(3) A vehicle subject to the speed limits imposed in subsection (1) traveling on a two-lane road may exceed the speed limits imposed in subsection (1) by 10 miles an hour in order to overtake and pass a vehicle and return safely to the right-hand lane.

(4)(3) Subject to the maximum speed limits set forth in ~~subsections subsection (1) and (2),~~ a person shall operate a vehicle in a careful and prudent manner and at a reduced rate of speed no greater than is reasonable and prudent under the conditions existing at the point of operation, taking into

SENATE BILL NO. 296
INTRODUCED BY D. WEINBERG

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE QUOTA SYSTEM FOR ISSUING RESTAURANT BEER AND WINE LICENSES; REVISING THE NUMBER OF QUOTA AREAS; INCREASING THE NUMBER OF RESTAURANT BEER AND WINE LICENSES THAT MAY BE ISSUED IN A QUOTA AREA; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) in the case of an individual applicant:

(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(ii) the applicant is not under 19 years of age;

(b) in the case of a corporate applicant:

(i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board of directors must meet the requirements of subsection (1)(a);

(ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and

(iii) the corporation is authorized to do business in Montana;

(c) in the case of any other business entity, including but not limited to partnerships, including limited liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:

(i) if the applicant consists of more than one individual, all individuals must meet the requirements of subsection (1)(a); and

(ii) if the applicant consists of more than one corporation, all corporations listed on a national stock exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock

exchange must meet the requirements of subsection (1)(b)(ii);

(d) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(e) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(f) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) ~~A restaurant~~ An on-premises retail licensee that who sells its the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

(a) the applicant is qualified to receive a license;

(b) the applicant's premises are suitable for the carrying on of the business;

(c) the requirements of this code and the rules promulgated by the department are complied with; and

(d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) For purposes of this section, "restaurant" means a public eating place where individually priced meals are prepared and served for on-premises consumption. At least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food. The restaurant must have a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant. A full-service restaurant is a restaurant that provides an evening dinner meal.

(7) (a) (i) Subject to the conditions of subsection (7)(a)(ii), a restaurant beer and wine license may be transferred, upon approval by the department, from the original applicant to a new owner of the restaurant if there is no change of location, and the original owner may transfer location after the license is issued by the department to a new location, upon approval by the department.

(ii) A new owner may not transfer the license to a new location for a period of 1 year following the transfer of the license to the new owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may

be issued in that quota area pursuant to 16-4-105;

~~(i)(ii)~~ for a restaurant located in a quota area with a population of ~~20,000~~ 5,001 to 20,000 persons ~~or fewer~~, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~80%~~ 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

~~(ii)(iii)~~ for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~50%~~ 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

~~(iii)(iv)~~ for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~40%~~ 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

~~(iv)(v)~~ for a restaurant located in a quota area that is also a resort community, as the resort community is designated by the department of commerce under 7-6-1501(5), if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than ~~400%~~ 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through ~~(8)(a)(iii)~~ (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under ~~subsections~~ subsection (8)(a)(i) through ~~(8)(a)(iii)~~, there must be a one-time adjustment of ~~one~~ four additional ~~license licenses~~ for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (9).

(9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in the quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) Any applicant who operates a restaurant that meets the qualifications of subsection (6) for at least

12 months prior to the filing of an application must be given a preference, and any unsuccessful lottery applicants from previous selections must also be given a preference. An applicant with both preferences must be awarded a license before any applicant with only one preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

- (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;
- (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or
- (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is \$400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a

restaurant beer and wine license."

NEW SECTION. **Section 2. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

- END -

SENATE BILL NO. 296
INTRODUCED BY D. WEINBERG, LIND

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE QUOTA SYSTEM FOR ISSUING RESTAURANT BEER AND WINE LICENSES; REVISING THE NUMBER OF QUOTA AREAS; INCREASING THE NUMBER OF RESTAURANT BEER AND WINE LICENSES THAT MAY BE ISSUED IN A QUOTA AREA; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) in the case of an individual applicant:

(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(ii) the applicant is not under 19 years of age;

(b) in the case of a corporate applicant:

(i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board of directors must meet the requirements of subsection (1)(a);

(ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and

(iii) the corporation is authorized to do business in Montana;

(c) in the case of any other business entity, including but not limited to partnerships, including limited liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:

(i) if the applicant consists of more than one individual, all individuals must meet the requirements of subsection (1)(a); and

(ii) if the applicant consists of more than one corporation, all corporations listed on a national stock exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock

exchange must meet the requirements of subsection (1)(b)(ii);

(d) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(e) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(f) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) ~~(i) A restaurant~~ An on-premises retail licensee that who sells its the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A PERSON, INCLUDING AN INDIVIDUAL, WITH AN OWNERSHIP INTEREST IN AN EXISTING ON-PREMISES RETAIL LICENSE THAT IS BEING TRANSFERRED TO A NEW PURCHASER MAY NOT ATTAIN AN OWNERSHIP INTEREST IN A LICENSE APPLIED FOR UNDER THIS SECTION FOR A PERIOD OF 1 YEAR FROM THE DATE THAT THE EXISTING ON-PREMISES RETAIL LICENSE IS TRANSFERRED TO A NEW PURCHASER.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

- (a) the applicant is qualified to receive a license;
- (b) the applicant's premises are suitable for the carrying on of the business;
- (c) the requirements of this code and the rules promulgated by the department are complied with; and
- (d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) For purposes of this section, "restaurant" means a public eating place where individually priced meals are prepared and served for on-premises consumption. At least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food. The restaurant must have a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant. A full-service restaurant is a restaurant that provides an evening dinner meal.

(7) (a) (i) Subject to the conditions of subsection (7)(a)(ii), a restaurant beer and wine license may be transferred, upon approval by the department, from the original applicant to a new owner of the restaurant if there is no change of location, and the original owner may transfer location after the license is issued by the department to a new location, upon approval by the department.

(ii) A new owner may not transfer the license to a new location for a period of 1 year following the transfer of the license to the new owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

~~(i)(ii)~~ (ii) for a restaurant located in a quota area with a population of ~~20,000~~ 5,001 to 20,000 persons ~~or fewer~~, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~80%~~ 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

~~(ii)(iii)~~ (iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~50%~~ 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

~~(iii)(iv)~~ (iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~40%~~ 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

~~(iv)(v)~~ (v) for a restaurant located in a quota area that is also a resort community, as the resort community is designated by the department of commerce under 7-6-1501(5), if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than ~~400%~~ 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through ~~(8)(a)(iii)~~ (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under ~~subsections~~ subsection (8)(a)(i) through ~~(8)(a)(iii)~~, there must be a one-time adjustment of ~~one~~ four additional ~~license~~ licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (9).

(9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in the quota area, the nonrenewal of a

restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) Any applicant who operates a restaurant that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application must be given a preference, and any unsuccessful lottery applicants from previous selections must also be given a preference. An applicant with both preferences must be awarded a license before any applicant with only one preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

- (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;
- (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or
- (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is \$400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license."

NEW SECTION. **Section 2. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 3. Effective date.** [This act] is effective ~~on passage and approval~~ JULY 1, 2007.

- END -



AN ACT REVISING THE QUOTA SYSTEM FOR ISSUING RESTAURANT BEER AND WINE LICENSES; REVISING THE NUMBER OF QUOTA AREAS; INCREASING THE NUMBER OF RESTAURANT BEER AND WINE LICENSES THAT MAY BE ISSUED IN A QUOTA AREA; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) in the case of an individual applicant:

(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(ii) the applicant is not under 19 years of age;

(b) in the case of a corporate applicant:

(i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board of directors must meet the requirements of subsection (1)(a);

(ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and

(iii) the corporation is authorized to do business in Montana;

(c) in the case of any other business entity, including but not limited to partnerships, including limited liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:

(i) if the applicant consists of more than one individual, all individuals must meet the requirements of subsection (1)(a); and

(ii) if the applicant consists of more than one corporation, all corporations listed on a national stock exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock

exchange must meet the requirements of subsection (1)(b)(ii);

(d) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(e) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(f) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) ~~A restaurant~~ An on-premises retail licensee that who sells its the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the

investigation and the exercise of its sound discretion, the department shall determine whether:

- (a) the applicant is qualified to receive a license;
- (b) the applicant's premises are suitable for the carrying on of the business;
- (c) the requirements of this code and the rules promulgated by the department are complied with; and
- (d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) For purposes of this section, "restaurant" means a public eating place where individually priced meals are prepared and served for on-premises consumption. At least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food. The restaurant must have a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant. A full-service restaurant is a restaurant that provides an evening dinner meal.

(7) (a) (i) Subject to the conditions of subsection (7)(a)(ii), a restaurant beer and wine license may be transferred, upon approval by the department, from the original applicant to a new owner of the restaurant if there is no change of location, and the original owner may transfer location after the license is issued by the department to a new location, upon approval by the department.

(ii) A new owner may not transfer the license to a new location for a period of 1 year following the transfer of the license to the new owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

~~(i)(ii)~~ (ii) for a restaurant located in a quota area with a population of ~~20,000~~ 5,001 to 20,000 persons ~~or fewer~~, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~80%~~ 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

~~(ii)(iii)~~ (iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~50%~~ 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

~~(iii)(iv)~~ (iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than ~~40%~~ 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

~~(iv)(v)~~ (v) for a restaurant located in a quota area that is also a resort community, as the resort community is designated by the department of commerce under 7-6-1501(5), if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than ~~400%~~ 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through ~~(8)(a)(iii)~~ (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under ~~subsections~~ subsection (8)(a)(i) through ~~(8)(a)(iii)~~, there must be a one-time adjustment of ~~one~~ four additional ~~license~~ licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded

by lottery as provided in subsection (9).

(9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in the quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) Any applicant who operates a restaurant that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application must be given a preference, and any unsuccessful lottery applicants from previous selections must also be given a preference. An applicant with both preferences must be awarded a license before any applicant with only one preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

- (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;
- (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or
- (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is \$400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license."

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 3. Effective date. [This act] is effective July 1, 2007.

- END -

I hereby certify that the within bill,
SB 0296, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 296

INTRODUCED BY D. WEINBERG, LIND

AN ACT REVISING THE QUOTA SYSTEM FOR ISSUING RESTAURANT BEER AND WINE LICENSES;
REVISING THE NUMBER OF QUOTA AREAS; INCREASING THE NUMBER OF RESTAURANT BEER
AND WINE LICENSES THAT MAY BE ISSUED IN A QUOTA AREA; AMENDING SECTION 16-4-420, MCA;
AND PROVIDING AN EFFECTIVE DATE.



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	SB0296
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Title:	Revise beer and wine licensing laws
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Primary Sponsor:	Weinberg, Dan
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Status:	As Introduced
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- | | | |
|---|--|--|
| ☐ Significant Local Gov Impact | ☐ Needs to be included in HB 2 | ☐ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts | ☐ Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2007 Difference</u>	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:					
General Fund	\$0	\$0	\$0	\$0	\$0
Proprietary Fund (06)	\$4,000	\$34,436	\$28,384	\$28,384	\$28,384
Revenue:					
General Fund	(\$4,000)	\$682,564	\$4,016	\$4,016	\$4,016
Proprietary Fund (06)	\$0	\$717,000	\$32,400	\$32,400	\$32,400
Net Impact-General Fund Balance:	<u>(\$4,000)</u>	<u>\$682,564</u>	<u>\$4,016</u>	<u>\$4,016</u>	<u>\$4,016</u>

Description of fiscal impact: This legislation increases the number of restaurant beer and wine licenses available. The number of licenses issued is expected to increase and the state receives fees for each license issued. This legislation will also require administrative costs for 0.50 FTE.

FISCAL ANALYSIS

Assumptions:

1. This legislation increases the number of restaurant beer and wine (RBW) licenses that the Department of Revenue is allowed to issue. The Department of Revenue has calculated that 183 new RBW will be available under the proposed legislation. Currently, only 44% of the available RBW licenses have been issued. Therefore, this legislation is expected to result in 81 new licenses (183* 44%) issued. Although SB 296 is effective on passage and approval, the new licenses will not be issued until after the license availability is published in newspapers statewide and the necessary paperwork has been completed. Therefore, this fiscal note assumes that these licenses are issued in FY 2008.

2. Licensees pay an initial license fee based on the seating capacity of the establishment, as described in MCA 16-4-420(11). The average initial fee for the 135 RBW licenses currently issued was \$8,852. Therefore, the fiscal impact in FY 2008 is expected to be \$717,000 (\$8,852*81).
3. Licensees pay an annual license renewal fee of \$400. The fiscal impact of this legislation is expected to be \$32,400 (\$400 * 81) in FY 2009 and each following fiscal year.
4. The Department of Revenue requires 0.5 additional FTE for a license examiner with administrative costs of \$34,438 in FY 2008 and \$28,384 in FY 2009 through FY 2011. In addition, the Department of Revenue must publish the availability of the new licenses immediately following the effective date of the legislation at a cost of \$4,000. The legislation is effective on passage and approval; therefore, there are administrative costs of \$4,000 in FY 2007.
5. The net fiscal impact of this legislation is (\$4,000) in FY 2007, \$682,564 in FY 2008, and \$4,016 in subsequent fiscal years. These revenues are received by the liquor proprietary fund. The net revenues left in the liquor proprietary fund after expenses are paid are deposited into the state general fund at the end of the fiscal year. The impact to the general fund is a decrease in the transfer to the general fund in FY 2007 and an increase in the revenue transfer in FY 2008 through FY 2011.

Expenditures:

Personal Services	\$0	\$25,988	\$25,988	\$25,988	\$25,988
Operating Expenses	\$4,000	\$1,748	\$2,396	\$2,396	\$2,396
Equipment	\$0	\$6,700	\$0	\$0	\$0
TOTAL Expenditures	\$4,000	\$34,436	\$28,384	\$28,384	\$28,384

Funding of Expenditures:

General Fund (01)	\$0	\$0	\$0	\$0	\$0
Proprietary Fund (06)	\$4,000	\$34,436	\$28,384	\$28,384	\$28,384
TOTAL Funding of Exp.	\$4,000	\$34,436	\$28,384	\$28,384	\$28,384

Revenues:

General Fund (01)	(\$4,000)	\$682,564	\$4,016	\$4,016	\$4,016
Proprietary Fund (06)	\$0	\$717,000	\$32,400	\$32,400	\$32,400
TOTAL Revenues	(\$4,000)	\$717,000	\$32,400	\$32,400	\$32,400

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$4,000)	\$682,564	\$4,016	\$4,016	\$4,016
Other	(\$4,000)	\$682,564	\$4,016	\$4,016	\$4,016

Sponsor's Initials_____
Date_____
Budget Director's Initials_____
Date

MINUTES

MONTANA SENATE 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: By **CHAIRMAN VICKI COCCHIARELLA**, on January 30, 2007 at 9:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Vicki Cocchiarella, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Roy Brown (R)
Sen. John Esp (R)
Sen. Verdell Jackson (R)
Sen. Lane L. Larson (D)
Sen. Don Ryan (D)
Sen. Frank Smith (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Claudia Johnson, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 296, 1/22/2007
Executive Action: SB 296, SB 108, SB 151, SB 250, SB 161

00:00:00 Chairwoman Cocchiarella

HEARING ON SB 296

Opening Statement by Sponsor:

00:01:47 **SEN. DAN WEINBERG (D), SD 2**, opened the hearing on **SB 296**, Revise beer and wine licensing laws.

Proponents:

00:04:46 Mark Staples, Montana Tavern Association (MTA)

00:14:41 Jupe Compton, President, MTA

00:15:02 Bob Miller, Bear Cub Bar and Grill

00:15:32 Sen. Greg Lind, Self

00:16:05 Neil LaFeaver, Yellowstone County Tavern Association

00:16:29 Stuart Doggett, Montana Innkeepers Association (MIA)

00:17:48 Brad Griffin, Montana Restaurant Association (MRA)

Opponents:

00:18:26 Walter Nickerson, Pollo Bar and Grill

Informational Testimony:

00:21:36 Jason Wood, Unit Manager, Liquor Division, Department of Revenue (DOR)

Questions from Committee Members and Responses:

00:22:51 Sen. Esp to Sen. Weinberg

00:28:02 Sen. Ryan to Mark Staples

00:36:31 Sen. Brown to Walter Nickerson

Closing by Sponsor:

00:39:56 Sen. Weinberg

EXECUTIVE ACTION ON SB 296

Discussion:

00:46:10 Pat Murdo, LSD

00:48:26 Sen. Balyeat

00:49:02 Sen. Cocchiarella

00:49:17 Sen. Ryan

00:51:03 Sen. Cocchiarella

00:51:14 **Motion:** SEN. SQUIRES moved that SB 296 DO PASS.

Discussion:

00:51:22 **Motion/Vote:** SEN. SQUIRES moved that AMENDMENT SB029601.APM BE ADOPTED. Motion carried unanimously by voice vote.

EXHIBIT(bus20a01)

00:52:09 **Motion/Vote:** SEN. TROPILA moved that AMENDMENT SB029602.APM BE ADOPTED. Motion carried unanimously by voice vote.

00:52:26 **Motion/Vote:** SEN. SQUIRES moved that SB 296 DO PASS AS AMENDED. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 108

00:52:46 Sen. Cocchiarella

EXHIBIT(bus20a02)

EXHIBIT(bus20a03)

00:54:40 **Motion:** SEN. LARSON moved that SB 108 DO PASS.

Discussion:

00:54:52 **Motion:** SEN. COCCHIARELLA moved that AMENDMENT SB010804.APM BE ADOPTED.

Discussion:

00:55:44 Sen. Brown to Dick Brown, Senior VP, An Association of Montana Health Care Providers (MHA)

EXHIBIT (bus20a04)

00:56:41 Nancy Butler, Montana State Fund (MSF)

EXHIBIT (bus20a05)

01:01:53 Sen. Ryan to Dick Brown, MHA

01:02:20 Sen. Squires to Sen. Cocchiarella

01:05:36 Pat Murdo, LSD

01:06:14 Sen. Esp to Sen. Cocchiarella

01:08:15 Sen. Squires to Sen. Cocchiarella

01:10:55 **Vote: Motion that AMENDMENT SB010804.APM BE ADOPTED carried unanimously by voice vote. SEN. BALYEAT voted by proxy.**

01:11:08 **Motion: SEN. SQUIRES moved that AMENDMENT SB010803.APM BE ADOPTED.**

Discussion:

01:13:28 Sen. Cocchiarella to Sen. Squires

01:14:41 Sen. Esp to Pat Murdo, LSD

01:17:33 **Sen. Squires withdrew her motion on AMENDMENT SB010803.APM.**

01:18:05 Sen. Cocchiarella to Sen. Squires

01:18:49 Sen. Cocchiarella to Nancy Butler, MSF

01:20:21 Sen. Squires

01:21:37 **Motion: SEN. ESP moved that SB 108 DO PASS AS AMENDED.**

Discussion:

01:22:03 Sen. Squires to Jerry Keck, DLI

01:24:43 Sen. Tropila

01:25:03 **Motion/Vote:** SEN. ESP CALLED THE QUESTION ON SB 108.
Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 151

01:25:47 **Motion:** SEN. RYAN moved that SB 151 DO PASS.

Discussion:

01:26:33 Sen. Jackson to Pat Murdo, LSD

EXHIBIT (bus20a06)

01:27:36 Sen. Jackson

01:28:56 Sen. Balyeat

01:32:15 Sen. Ryan

01:35:17 Sen. Esp

01:36:14 Sen. Cocchiarella

01:38:47 Sen. Ryan

01:39:55 **Motion/Vote:** SEN. RYAN moved that SB 151 DO PASS.
Motion failed 4-7 by roll call vote with SEN. LARSON,
SEN. RYAN, SEN. STEINBEISSER, and SEN. TROPILA voting
aye. SEN. SQUIRES voted by proxy.

01:41:30 **Motion/Vote:** SEN. ESP moved that SB 151 BE TABLED AND
THE VOTE REVERSED. Motion carried 7-4 by roll call vote
with SEN. LARSON, SEN. RYAN, SEN. STEINBEISSER, and
SEN. TROPILA voting no. SEN. SQUIRES voted by proxy.

EXECUTIVE ACTION ON SB 250

01:42:09 **Motion:** SEN. LARSON moved that SB 250 DO NOT PASS.

Discussion:

01:42:28 Sen. Cocchiarella to Sen. Larson

01:45:38 Sen. Jackson

- 01:48:53 Substitute Motion/Vote: SEN. ESP made a substitute motion that SB 250 BE TABLED. Substitute motion failed 3-8 by roll call vote with SEN. BROWN, SEN. ESP, and SEN. STEINBEISSER voting aye. SEN. SQUIRES voted by proxy.
- 01:50:22 Motion/Vote: SEN. COCCHIARELLA CALLED THE QUESTION ON SB 250 DO NOT PASS motion. Motion carried 6-5 by roll call vote with SEN. BALLEW, SEN. BROWN, SEN. ESP, SEN. JACKSON, and SEN. STEINBEISSER voting no. SEN. SQUIRES voted by proxy.

EXECUTIVE ACTION ON SB 161

- 01:52:09 Motion: SEN. BROWN moved that SB 161 DO PASS.
- Discussion:
- 01:52:38 Pat Murdo, LSD
- 01:53:19 Motion/Vote: SEN. BROWN moved that AMENDMENT SB016101.APM BE ADOPTED. Motion carried unanimously by voice vote. SEN. SQUIRES voted by proxy.
- Discussion:
- 01:54:03 Sen. Cocchiarella to John Huth, State Auditor's Office (SAO)
- 01:54:48 Sen. Tropila to John Huth, SAO
- 01:55:03 Motion/Vote: SEN. RYAN moved that AMENDMENT SB016102.APM BE ADOPTED. Motion carried unanimously by voice vote. SEN. SQUIRES voted by proxy.
- 01:55:27 Motion/Vote: SEN. BROWN moved that SB 161 DO PASS AS AMENDED. Motion carried 10-1 with SEN. BALLEW voting no. SEN. SQUIRES voted by proxy.

ADJOURNMENT

Adjournment: 11:30 A.M.

SEN. VICKI COCCHIARELLA, Chairman

CLAUDIA JOHNSON, Secretary

VC/cj

Additional Exhibits:

EXHIBIT ([bus20aad.pdf](#))

Amendments to Senate Bill No. 296
1st Reading Copy

Requested by Senator Joseph (Joe) Tropila

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
January 30, 2007 (8:11am)

1. Page 2, line 22.

Following: "(b)"

Insert: "(i)"

2. Page 2.

Following: line 24

Insert: "(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser."

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By Chairman Scott Mendenhall, on April 2, 2007 at 9:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Scott Mendenhall, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Mike Milburn, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Shannon Augare (D)
Rep. Scott Boggio (R)
Rep. Ernie Dutton (R)
Rep. Kevin T. Furey (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Harry Klock (R)
Rep. Michele Reinhart (D)
Rep. Wayne Stahl (R)
Rep. Bill Thomas (D)
Rep. Kendall Van Dyk (D)

Members Excused: Rep. Jonathan Windy Boy (D)

Members Absent: None

Staff Present: Bart Campbell, Legislative Branch
Nancy Kraft, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	SB 127, 3/26/2007; SB 157, 3/27/2007; SB 296, 3/27/2007; SB 419, 03/30/2007; SB 524, 3/26/2007
Executive Action:	SB 524; SB 127; SB 296; SB 157; SB 276; SJR 15: SB 491

HEARING ON SB 127

Opening Statement by Sponsor:

00:04:34 Sen. David Wanzenried (D), SD 49, opened the hearing on SB 127, Revise out-of-state winery access to Montana retailers.

Proponents' Testimony:

00:07:48 Shauna Helfert, Department of Revenue

00:13:59 Kristi Blazer, Montana Beer and Wine Distributors' Association

EXHIBIT(buh70a01)

00:17:01 Doug Wagner, Clear Weather Wines, Missoula, Montana

00:17:41 Mona Jamison, Wine Institute

EXHIBIT(buh70a02)

00:20:09 Ken Schultz, Trapper Creek Winery, Hamilton, Montana

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:21:50 Rep. Thomas

00:22:30 Ms. Blazer

Closing by Sponsor:

00:23:57 Sen. Wanzenried

HEARING ON SB 524

Opening Statement by Sponsor:

00:25:07 Sen. David Wanzenried (D), SD 49, opened the hearing on SB 524, Revise brewery regulation and beer distribution laws.

Proponents' Testimony:

00:25:54 Shawna Helfert, Department of Revenue

00:27:50 Kristi Blazer, Montana Beer and Wine Distributors' Association

EXHIBIT(buh70a03)

00:28:58 Brian Smith, Montana State Brewer's Association

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:30:04 Sen. Wanzenried

HEARING ON SB 296

Opening Statement by Sponsor:

00:31:50 Sen. Dan Weinberg (D), SD 2, opened the hearing on SB 296, Revise beer and wine licensing laws.

Proponents' Testimony:

00:36:01 Mark Staples, Montana Tavern Association

Opponents' Testimony: None

Informational Testimony:

00:42:07 Jason Wood, Liquor Control Division, Department of Revenue

Questions from Committee Members and Responses:

00:42:29 Rep. Dutton

00:43:01 Mr. Staples

Closing by Sponsor:

00:43:40 Sen. Weinberg

EXECUTIVE ACTION ON SB 524

00:46:25 **Motion:** Rep. Heinert moved that SB 524 **BE CONCURRED IN.**

Discussion:

00:46:40 Rep. Arntzen

00:47:11 Rep. Mendenhall

00:47:46 Rep. Heinert

00:48:16 Rep. Arntzen

00:49:10 **Vote:** Motion carried unanimously by voice vote. Reps. Keane, Stahl, Jones, and Windy Boy voted by proxy. Rep. Mendenhall will carry the bill.

EXECUTIVE ACTION ON SB 127

00:50:04 **Motion/Vote:** Rep. Milburn moved that SB 127 **BE CONCURRED IN**. Motion carried unanimously by voice vote. Reps. Keane, Stahl, Jones, and Windy Boy voted by proxy. Rep. Mendenhall will carry the bill.

EXECUTIVE ACTION ON SB 296

00:50:58 **Motion/Vote:** Rep. Milburn moved that SB 296 **BE CONCURRED IN**. Motion carried 15-1 by voice vote with Rep. Windy Boy voting no. Reps. Keane, Stahl, Jones, and Windy Boy voted by proxy. Rep. Dutton will carry the bill.

HEARING ON SB 157

Opening Statement by Sponsor:

00:52:16 Sen. Don Ryan (D), SD 10, opened the hearing on SB 157, Revise insurance and security laws.

Proponents' Testimony:

00:53:27 Erin McGowan Fincham, State Auditor's Office

EXHIBIT (buh70a04)

00:57:09 Frank Cote, America's Health Insurance Plans and Blue Cross Blue Shield

00:57:28 Jacqueline Lenmark, American Insurance Association and The American Council of Life Insurers; and for Dwight Easton, Farmers Insurance Group; Larry Kibbee, Property Casualty Insurance Association of America; and Greg VanHorssen, State Farm Insurance

00:58:06 Todd Lovshin, Allegiance Benefit Plan Management and Allegiance Life and Health Insurance Company

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:58:44 Sen. Ryan

EXECUTIVE ACTION ON SB 157

00:59:46 **Motion:** Rep. Milburn moved that SB 157 **BE CONCURRED IN.**

Discussion:

00:59:56 Rep. Dutton
01:00:08 Rep. Augare
01:00:15 Rep. Milburn

01:00:40 **Vote:** Motion carried unanimously by voice vote. Reps. Keane, Stahl, Jones, and Windy Boy voted by proxy. Rep. Augare will carry the bill.

01:17:16 Break

HEARING ON SB 419

Opening Statement by Sponsor:

01:01:23 Sen. Greg Lind (D), SD 50, opened the hearing on SB 419, Allow children to remain covered by parent's health insurance to age 26.

Proponents' Testimony:

01:20:52 Carol Roy, State Auditor's Office
01:21:21 Frank Cote, Blue Cross Blue Shield (BCBS)
01:21:34 Don Judge, Teamsters' Local 190
01:23:06 Bob Worthington, Montana Municipal Insurance Authority
01:23:30 Tonya Ask, BCBS
01:24:11 Scott Martin, Students of Montana State University (MSU)-Billings, MSU-Great Falls, and MSU-Northern; and for the University of Montana and MSU-Bozeman
01:25:33 Mike Foster, Sisters of Charity Hospitals
01:26:32 Pat Melby, Montana Medical Association
01:27:30 Joy Bruck, Volunteer Advocate for AARP
01:28:24 Mike Hanshaw
01:30:18 Mike Foster for Jani McCall, Billings Clinic

Opponents' Testimony: None

Informational Testimony:

01:30:56 Connie Welsh, Department of Administration

Questions from Committee Members and Responses:

01:31:29 Rep. Reinhart
 01:33:21 Sen. Lind
 01:34:04 Rep. Milburn
 01:34:58 Ms. Welsh
 01:36:36 Rep. Furey
 01:37:01 Sen. Lind
 01:38:00 Rep. Mendenhall
 01:38:38 Ms. Ask
 01:41:27 Rep. Dutton
 01:42:05 Sen. Lind
 01:44:51 Rep. Reinhart
 01:45:07 Ms. Ask
 01:45:51 Rep. Mendenhall

Closing by Sponsor:

01:47:12 Sen. Lind

EXECUTIVE ACTION ON SB 276

01:50:13 **Motion:** Rep. Milburn moved that SB 276 **BE CONCURRED IN.**
 01:50:57 **Motion:** Rep. Milburn moved that SB 276 **BE AMENDED.**
[**EXHIBIT**](#) (buh70a05)

Discussion:

01:52:14 Jacqueline Lenmark, American Council of Life Insurers
 01:52:51 Bart Campbell
 01:54:02 Rep. Arntzen
 01:54:16 Rep. Reinhart

01:54:58 **Motion/Vote:** Rep. Reinhart moved that the **AMENDMENT BE SEGREGATED.** Motion carried unanimously by voice vote. Reps. Windy Boy, Keane, and Jones voted by proxy.
 01:56:10 **Vote:** Motion on Item 1 of the amendment carried unanimously by voice vote. Reps. Windy Boy, Keane, and Jones voted by proxy.
 01:56:30 **Motion:** Rep. Reinhart moved that SB 276 **BE AMENDED.**
[**EXHIBIT**](#) (buh70a06)

Discussion:

01:58:11 Mr. Campbell
 01:58:37 Rep. Reinhart
 01:58:52 Mr. Campbell

01:59:23 Rep. Dutton
02:00:10 Rep. Reinhart
02:00:13 Mary Arnold, State Auditor's Office
02:01:07 Rep. Dutton
02:01:28 Ms. Arnold
02:01:33 Steve Yeakel
02:02:25 Rep. Mendenhall
02:03:18 Ms. Arnold
02:03:37 Rep. Dutton
02:03:54 Mr. Campbell
02:04:32 Rep. Dutton
02:04:50 Mr. Campbell
02:05:45 Rep. Mendenhall
02:06:20 Rep. Dutton
02:06:28 Rep. Arntzen
02:06:45 Ms. Arnold
02:07:10 Rep. Reinhart
02:07:50 Rep. Mendenhall
02:08:00 Rep. Reinhart
02:08:31 Rep. Mendenhall
02:08:45 Ms. Lenmark

02:10:47 **Motion:** Rep. Reinhart moved **A CONCEPTUAL AMENDMENT** to SB 276.

Discussion:

02:11:19 Rep. Thomas
02:11:22 Mr. Campbell

02:13:01 **Substitute Motion/Vote:** Rep. Reinhart made a substitute motion for a **SUBSTITUTE AMENDMENT TO EXHIBIT 6**. Motion carried unanimously by voice vote. Rep. Windy Boy voted by proxy.

02:14:18 **Motion/Vote:** Rep. Reinhart moved that SB 276 **BE AMENDED**. Motion carried unanimously by voice vote. Rep. Windy Boy voted by proxy.

EXHIBIT (buh70a07)

02:16:07 **Motion/Vote:** Rep. Reinhart moved that SB 276 **BE CONCURRED IN AS AMENDED**. Motion carried unanimously by voice vote. Rep. Windy Boy voted by proxy. Rep. Reinhart will carry the bill.

EXECUTIVE ACTION ON SJR 15

02:17:56 **Motion:** Rep. Milburn moved that SJR 15 **BE CONCURRED IN**.

02:18:35 **Motion:** Rep. Milburn moved that SJR 15 **BE AMENDED**.
EXHIBIT (buh70a08)

Discussion:

02:18:53 Bart Campbell

02:20:12 Rep. Keane

02:20:37 **Vote:** Motion carried unanimously by voice vote. Rep. Windy Boy voted by proxy.

02:20:53 **Motion:** Rep. Dutton moved that SJR 15 **BE AMENDED.**

EXHIBIT (buh70a09)

Discussion:

02:22:20 Rep. Arntzen

02:22:40 Rep. Keane

02:22:59 Rep. Dutton

02:23:09 **Vote:** Motion carried unanimously by voice vote. Rep. Windy Boy voted by proxy.

02:23:20 **Motion:** Rep. Milburn moved that SJR 15 **BE CONCURRED IN AS AMENDED.**

Discussion:

02:23:41 Rep. Mendenhall

02:24:27 Rep. Jones

02:25:24 Rep. Keane

02:26:20 **Vote:** Motion carried unanimously by voice vote. Rep. Windy Boy voted by proxy. Rep. Keane will carry the bill.

EXECUTIVE ACTION ON SB 491

02:27:11 **Motion:** Rep. Milburn moved that SB 491 **BE CONCURRED IN.**

02:27:41 **Motion:** Rep. Dutton moved that SB 491 **BE AMENDED.**

EXHIBIT (buh70a10)

Discussion:

02:28:29 Rep. Reinhart

02:29:30 Rep. Keane

02:29:36 Rep. Dutton

02:29:55 Rep. Keane

02:30:03 Rep. Dutton

02:30:57 Rep. Milburn

02:31:17 Rep. Mendenhall

02:31:35 Rep. Reinhart

02:32:37 Rep. Stahl

02:32:48 Bart Campbell
02:33:12 Rep. Furey
02:33:47 Rep. Augare

02:34:42 **Vote:** Motion failed 8-8 by roll call vote with Reps. Arntzen, Boggio, Dutton, Heinert, Klock, Mendenhall, Milburn, and Stahl voting aye. Rep. Windy Boy voted by proxy.

Discussion:

02:35:00 Rep. Mendenhall
02:36:45 Rep. Keane
02:37:48 Rep. Reinhart
02:39:17 Rep. Arntzen
02:39:43 Rep. Mendenhall
02:39:57 Bart Campbell

02:41:04 **Motion:** Rep. Thomas moved to **RECONSIDER THE MOTION TO AMEND** on SB 491.

Discussion:

02:41:31 Rep. Jones
02:42:55 Rep. Keane
02:43:41 Rep. Thomas
02:43:57 Mr. Campbell
02:44:34 Rep. Thomas
02:45:33 Rep. Augare
02:47:24 Rep. Dutton

02:49:25 **Vote:** Motion carried 11-5 by roll call vote with Reps. Keane, Windy Boy, Augare, Furey, and Van Dyk voting no. Reps. Windy Boy voted by proxy.

02:50:14 **Motion:** Rep. Thomas moved that SB 491 **BE CONCURRED IN AS AMENDED.**

Discussion:

02:50:24 Rep. Augare
02:51:07 Rep. Mendenhall

02:51:57 **Vote:** Motion carried unanimously by voice vote. Reps. Windy Boy and Van Dyk voted by proxy. Rep. Dutton will carry the bill.

Additional Exhibits:

Document pertaining to SB 451; Hearing 3/27/07

EXHIBIT (buh70a11)

ADJOURNMENT

02:52:23 Adjournment: 11:55 A.M.

REP. SCOTT MENDENHALL, Chairman

NANCY KRAFT, Secretary

SM/nk

Additional Exhibits:

EXHIBIT ([buh70aad.pdf](#))